

1 IN THE UNITED STATES DISTRICT COURT

2 MIDDLE DISTRICT OF FLORIDA

3 TAMPA DIVISION

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5
6 REBOTIX REPAIR, LLC,

7 Plaintiff,

8 vs.

Case No. 8:20-CV-02274

9 INTUITIVE SURGICAL, INC.,

10 Defendant.

11 _____/

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15 30(b)(6) REMOTE VIDEOTAPED DEPOSITION OF

16 BOB DESANTIS

17 THURSDAY, MAY 27, 2021

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21 Stenographically Reported by:

22 ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR, CLR

23 California CSR No. 9830

24 Job No. 194224

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Case No. 8:20-CV-02274

9 INTUITIVE SURGICAL, INC.,

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15 REMOTE VIDEOTAPED DEPOSITION OF BOB DESANTIS,
16 taken on behalf of the Plaintiff, on Thursday,
17 May 27, 2021, beginning at 6:36 a.m., and ending at
18 2:50 p.m., Pursuant to Notice, and remotely before
19 me, ANDREA M. IGNACIO, CSR, RPR, CRR, CLR ~ License
20 No. 9830.

1 BOB DESANTIS,

2 having been remotely sworn as a witness

3 by the certified shorthand Reporter,

4 testified as follows:

5
6 EXAMINATION

7 BY MR. ERWIG:

8 Q Good morning, Mr. DeSantis.

9 A Good morning, Mr. Erwig.

10 Q Could you please state your full name for the
11 record.

12 A Yes. It's Robert James DeSantis.

13 Q What is your position at Intuitive Surgical?

14 A Executive vice president and chief product
15 officer.

16 Q And how long have you been in that role?

17 A Since January.

18 Q And what were your prior positions at
19 Intuitive Surgical?

20 A I was -- prior to that, I was senior vice
21 president, general manager for our instruments and
22 accessories business unit.

23 Q How long were you in that position?

24 A For about four years.

25 Q How long have you been with --

1 that?

2 A The company -- I'll kind of go back to what I
3 said earlier. You know, the company believes in
4 putting patients first, providing technologies to
5 surgeons that will help them help patients. So that's
6 been our strategy, and that's been our mission.

7 In doing that, you know, we've spent a lot of
8 time and money and -- and effort and -- and developed
9 the soft tissue robot.

10 The fact that that is a barrier for others,
11 et cetera, is a -- kind of a side effect of what --
12 what our -- our effort has been and what our mission
13 has been.

14 Q There's some challenges that potential
15 competitors face when they're trying to -- to break
16 into that market of providing care to patients; right?

17 A Yes.

18 Q One challenge is that there is an already
19 large install base of da Vinci robots in hospitals
20 around the United States; is that right?

21 A Yes.

22 Q Another challenge is that surgeons have had a
23 great deal of training on the da Vinci Surgical
24 System; right?

25 A So we talked about in terms like a great deal

1 have an absolute right to that.

2 And so I'm happy to do it at the next break.
3 We don't need to go off the record now. But I'd like
4 those before the day goes too much further.

5 MR. RUBY: And I don't propose to argue with
6 you about your view of when you're entitled to what.
7 I asked you a question, and you got around to
8 answering it.

9 So at the next break, I'll see if I can take
10 a look at them, and we'll see where that takes us;
11 okay?

12 THE WITNESS: And I was going to say, just
13 for the record, that's your guys' business.

14 I said I would let you know if I reference
15 the notes. I have not yet.

16 MR. ERWIG: Great. Thanks for letting me
17 know.

18 THE WITNESS: Yeah.

19 MR. ERWIG: Q. Now, in the period between
20 1999 and 2019, were there any viable alternatives to a
21 surgeon that wanted to perform a minimally invasive
22 soft tissue robotic surgery other than the da Vinci
23 surgical robot?

24 A No, I don't believe so.

25 MR. ERWIG: I'm going to stop screen sharing

1 Q The reason for that is that Intuitive was
2 able to effectively stop Rebotix using letters to
3 hospitals, for example; right?

4 A No. The reason we didn't get into it is
5 because it financially didn't just make sense to us.

6 Q It was also not necessary to combat
7 utilization of third-party aftermarket refurbished
8 instruments; right?

9 MR. RUBY: I would object to the form of the
10 question. To me it's unintelligible, but the witness
11 can answer it if he -- if he can.

12 THE WITNESS: Yeah, if you wouldn't mind
13 rephrasing it or repeating it if you can't rephrase
14 it.

15 MR. ERWIG: Sure.

16 Q Intuitive took some actions in response to
17 the services Rebotix was offering to hospitals; true?

18 A We did, yes.

19 Q One of those actions was sending letters
20 informing the hospitals they were in breach of the
21 sales agreement they had signed with Intuitive; right?

22 A That was part of the letter, yes.

23 Q Now, another action was telling hospitals
24 that if hospitals continues using Rebotix, that
25 Intuitive would no longer service their da Vinci

1 systems?

2 A We were essentially informing them of, one,
3 what they were engaged in. Two, what the implications
4 were. And, you know, three, what that meant for our
5 contractual agreements with them, yes.

6 Q One of the actions that Intuitive would take
7 if a hospital continued using Rebotix was it would
8 stop servicing that hospital's da Vinci robot; true?

9 A We would comply with our contract if they
10 were not.

11 Q Sorry. I don't think I quite understand that
12 answer.

13 A So when we sell a system, we basically
14 have -- have a contingency that they will not use
15 third-party service, et cetera, because of the danger
16 of doing it. And everything I mentioned earlier about
17 the jeopardizing of the company's brand, its quality,
18 image, et cetera.

19 But regardless of the rationale, if they do
20 not comply with that, then we won't have a
21 relationship with them going forward which would
22 include we won't service and we won't provide
23 consumables.

24 Q If a da Vinci robot is not serviced by
25 Intuitive, it's ultimately unusable for surgery;

1 right?

2 A I don't know. I don't -- I believe it can
3 continue to be used.

4 Q Well, there's certain areas that the robot
5 can generate that only Intuitive can resolve with its
6 proprietary software; true?

7 A I believe so. We're in an area that's not --
8 not my expertise.

9 Q And it's your understanding that certain
10 service issues, if they're not repaired by -- it's
11 your understanding that certain service issues, if
12 they're not addressed by Intuitive representative,
13 they will render the robot unusable for surgery;
14 right?

15 A I don't know that.

16 Q Look at Slide 4 with you. The slide titled
17 "Dragon"; do you see that?

18 A Yes.

19 Q There's some "User Focused" and "Company
20 Focused" bullets on this slide; do you see that?

21 A Yes.

22 Q User "Focus Bullet" says "Confidence" --

23 THE REPORTER: Hold on. Counsel, if you
24 would please, your papers.

25 MR. RUBY: Sorry.